



Federal Communications Commission  
Washington, D.C. 20554

DA 07-122  
January 19, 2007

Michael E. Carosella  
QUALCOMM Incorporated  
5775 Morehouse Drive  
San Diego, CA 92121

Re: WPZA236, Norfolk/Richmond, VA  
ULS File No. 0002786920  
WHAG-DT, Hagerstown, Maryland  
Facility ID No. 25045

Dear Mr. Carosella,

On October 16, 2006, you filed an FCC Form 601 application for modification of station WPZA236, seeking authorization to operate on TV Channel 55 in the Norfolk/Richmond, VA area.<sup>1</sup> Your application incorporates broadcaster consent, pursuant to section 27.60(b)(1)(iv) of the Commission's rules.<sup>2</sup> This rule section permits a 700 MHz Band licensee to obtain the written concurrence of a co-channel or adjacent channel TV/DTV broadcaster, whereby the incumbent broadcaster consents to accept higher levels of interference than the rule otherwise permits, subject to Commission approval.<sup>3</sup> Your application, as amended, includes a copy of a consent agreement between QUALCOMM Incorporated ("QUALCOMM") and NEXSTAR Broadcasting, Inc. ("NEXSTAR"), licensee of WHAG-DT, channel 55, Hagerstown, Maryland. In the agreement, NEXSTAR has agreed to accept potential interference to 2.31% of the population in the noise limited service contour of WHAG-DT's construction permit (BMPCDT-20021203ACX).

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<sup>1</sup> The application was amended, under the same ULS file number, on October 17 and 23, 2006; November 13 and 28, 2006; and January 16, 2007. The Commission placed the application on public notice. *See* Wireless Bureau Market-Based Applications Accepted for Filing, *Public Notice*, Report No. 2700 at 3 (rel. Nov. 1, 2006). No petitions have been filed against the application.

<sup>2</sup> *See* 47 C.F.R. § 27.60(b)(1)(iv).

<sup>3</sup> This approval process involves an analysis by the Media Bureau, under delegated authority, to determine whether grant of the application is in the public interest. *See* Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99-168, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 20845 (2000) (basis for public interest analysis of Lower 700 MHz consent agreements); Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), GN Docket No. 01-74, *Report and Order*, 17 FCC Rcd 1022 (2002) (framework for public interest analysis of Lower 700 MHz "band-clearing" agreements) ("*Lower 700 MHz Report and Order*").

For the reasons discussed below, we find that grant of the application is in the public interest.<sup>4</sup> First, our approval of the application will allow QUALCOMM to deploy its MediaFLO (“forward link only”) technology, a “mediacast” service capable of delivering many channels of multimedia content to third generation (“3G”) wireless phones. According to QUALCOMM, which holds licenses for Channel 55 (Block D in the Lower 700 MHz Band) covering the entire nation, MediaFLO initially will provide up to fifteen live streaming video program channels, numerous video “clip cast” channels from which subscribers can choose video clips for viewing on-demand, and numerous audio channels.<sup>5</sup> QUALCOMM states that MediaFLO will be available at “mass market” prices for most of the nation’s over 194 million mobile phone customers, and that it will spur the development of new content and new technologies.<sup>6</sup> QUALCOMM also intends that the network will carry local programming and core public interest program content such as breaking news, weather, and public affairs, as well as maintain network capability to disseminate emergency alert information, in both visual (including textual) and auditory form. QUALCOMM further states that its MediaFLO technology offers distinct efficiency and cost advantages in delivering content to a large mobile subscriber base, as compared to cellular and higher-frequency based systems. Moreover, as QUALCOMM notes, MediaFLO will be affordable, readily available and will stimulate new development on a large scale within the emerging technology of mobile video.<sup>7</sup> Given that QUALCOMM’s business plan calls for an investment of \$800 million, grant of this application will contribute to the growth of the American economy.<sup>8</sup>

Second, WHAG(TV) is not the sole station licensed to Hagerstown. While WHAG(TV) is an NBC affiliate, most of the area of agreed-upon interference is served by other NBC affiliates. Almost half of the affected viewers reside within the Harrisburg-Lancaster-Lebanon-York, Pennsylvania or Baltimore, Maryland DMA and receive their local NBC service from WGAL(TV)/DT, Lancaster, Pennsylvania or WBAL(TV)/DT, Baltimore, Maryland. With respect to the remaining 19,089 affected viewers, all will continue to receive local NBC analog service from WHAG(TV), and virtually all of them will continue to receive the signals of NBC affiliates WRC-DT, Washington, D.C., WBAL-DT and/or WGAL-DT. Only 357 persons will no longer be predicted to receive an NBC DTV service, and only until the end of the DTV transition in February 2009.<sup>9</sup> In addition, almost all of the affected viewers will continue to be served by 14 or more analog and digital TV stations, while a small portion of the area of agreed-upon interference will continue to be served by eight other analog and digital TV stations.

Accordingly, we believe that the public interest will be served by a grant of QUALCOMM’s application, conditioned upon operating within the technical parameters specified in the application, and

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<sup>4</sup> With respect to any stations receiving interference for which consent is not provided, we note that QUALCOMM’s proposed operations are in accordance with the terms of the Commission’s Order granted October 13, 2006. *See* Qualcomm Incorporated Petition for Declaratory Ruling, *Order*, 21 FCC Rcd 11683 (2006).

<sup>5</sup> QUALCOMM Attachment at 5.

<sup>6</sup> *Id.*

<sup>7</sup> QUALCOMM Attachment at 5, 6.

<sup>8</sup> QUALCOMM Attachment at 6.

<sup>9</sup> Moreover, we note that the above-referenced population figures are based upon the population within the noise-limited service contour of WHAG-DT’s authorized construction permit. WHAG-DT is currently operating pursuant to a low-power STA, and the majority of viewers in the loss area do not currently receive a digital signal from WHAG. Thus, only 6,245 persons who actually receive a digital signal from WHAG-DT/STA will lose that service.

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in accordance with the NEXSTAR Agreement. Any changes to the technical parameters of the proposed facilities that will result in levels of interference greater than those agreed to in the preceding agreements referenced herein, or that result in any additional interference under the thresholds established in the Commission's Qualcomm Order, will require separate Commission approval.

Sincerely,

Barbara A. Kreisman, Chief  
Video Division  
Media Bureau

Roger S. Noel, Chief  
Mobility Division  
Wireless Telecommunications Bureau